

§ 120.890

paid with proceeds of the 504 loan. These include, but are not limited to, the following:

- (a) Debt refinancing (other than interim financing).
- (b) Third-Party Loan fees (commitment, broker, finders, origination, processing fees of permanent financing).
- (c) Ancillary business expenses, such as:
 - (1) Working capital;
 - (2) Counseling or management services fees;
 - (3) Incorporation/organization costs;
 - (4) Franchise fees; and
 - (5) Advertising.
- (d) Fixed-asset Project components, such as:
 - (1) Short-term equipment, furniture, and furnishings (unless essential to and a minor portion of the Project);
 - (2) Automobiles, trucks, and airplanes; and
 - (3) Construction equipment (except for heavy duty construction equipment integral to a business' operations and meeting the IRS definition of capital equipment).
- (e) Closing legal fees.

INTERIM FINANCING

§ 120.890 Source of interim financing.

A Project may use interim financing for all Project costs except the Borrower's contribution. Any source (including a CDC) may supply interim financing provided:

- (a) The financing is not derived from any SBA program, directly or indirectly;
- (b) The terms and conditions of the financing are acceptable to SBA;
- (c) The source is not the Borrower or an Associate of the Borrower; and
- (d) The source has the experience and qualifications to monitor properly all Project construction and progress payments. (If the source lacks such experience or qualifications, SBA may require the interim loan to be managed by a third party such as a bank or professional construction manager.)

§ 120.891 Certifications of disbursement and completion.

Before the Debenture is issued, the interim lender must certify the

13 CFR Ch. I (1-1-98 Edition)

amount disbursed. The CDC must certify that the Project was completed in accordance with the final plans and specifications (except as provided in § 120.961).

§ 120.892 Certifications of no adverse change.

Following completion of the Project, the following certifications must be made before the 504 loan closing:

- (a) The interim lender must certify to the CDC that it has no knowledge of any unremedied substantial adverse change in the condition of the small business since the application to the interim lender;
- (b) The Borrower (or Operating Company) must certify to the CDC that there has been no unremedied substantial adverse change in its financial condition or its ability to repay the 504 loan since the date of application, and must furnish interim financial statements, current within 90 days of closing; and
- (c) The CDC must issue an opinion to the best of its knowledge that there has been no unremedied substantial adverse change in the Borrower's (or Operating Company's) ability to repay the 504 loan since its submission of the loan application to SBA.

PERMANENT FINANCING

§ 120.900 What are the sources of permanent financing?

Permanent financing for each Project must come from three sources: the Borrower's contribution, Third-Party Loans, and the 504 loan. Typically, the Borrower contributes 10 percent of the permanent financing, Third-Party Loans 50 percent and the 504 loan 40 percent.

THE BORROWER'S CONTRIBUTION

§ 120.910 How much must the Borrower contribute?

The Borrower must contribute to the Project cash (or property acceptable to SBA obtained with the cash) or land (that is part of the Project Property) valued at 10 percent or more of the Project cost (exclusive of administrative cost). The source of the contribution may be a CDC or any other source